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CONTINENTAL CASUALTY COMPANY

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

STEVEN SMITH, FERNANDEZ	)	CASE NO. 02-5431 OWW SMS
A. SMITH, AND THE ESTATE	)	Complaint Filed: 4/19/02
OF BONNIE JOYCE SMITH,	)	
	)	[Assigned to Honorable Oliver
Plaintiffs,	)	W. Wanger, Courtroom 2]
	)	
vs.	)	<b>STIPULATION AND ORDER</b>
	)	<b>CONTINUING TRIAL, THE PRE-</b>
CONTINENTAL CASUALTY	)	<b>TRIAL CONFERENCE AND THE</b>
COMPANY,	)	<b>EXPERT DISCOVERY CUT-OFF</b>
	)	
Defendants.	)	

Stipulation re Pre-trial Conference & Discovery Cut-off Continuance

**RECITALS**

Whereas, trial in this matter is set for September 13, 2005, with a pre-trial conference scheduled for July 18, 2005;

The cut-off for expert discovery is currently June 30, 2005;

Recently, the parties were able to complete several depositions, including the depositions of Plaintiff Fernandez Smith and the wife of Plaintiff Steven Smith;

During the course of these depositions, further information was obtained which Defendant Continental Casualty Company believes necessitates four additional depositions (specifically, the depositions of John Gordon, Susan Hall, and representatives of the Mechanic's Bank and the Benicia California Housing Authority);

In addition, Plaintiffs believe it may be necessary to take the deposition of Sharon Williams of Air Ride, Inc. (decedent Bonnie Smith's former employer);

The parties agree that these depositions should go forward prior to the expert depositions in this case;

However, in light of the schedules of these third-party witnesses and the schedules of the involved counsel, the parties do not anticipate being able to complete these depositions before July 22, 2005;

Consequently, the parties believe this matter can be more efficiently and economically litigated if trial, the expert discovery cut-off and the pre-trial conference are continued approximately 60 days;

1 The Parties have met and conferred regarding trial  
2 availability and counsel are available for trial during the  
3 last week of November and the first two weeks of December  
4 2005.

5 **STIPULATION**

6 IT IS THEREFORE STIPULATED by and between the parties,  
7 through their respective counsel of record, that:

8 1. The June 30, 2005 expert discovery cut-off date be  
9 continued August 30, 2005;

10 2. The July 18, 2005 pre-trial conference and the  
11 September 13, 2005 trial be continued approximately 60  
12 days.

13  
14 DATED: June \_\_, 2005

BERGER KAHN, A Law Corporation

15  
16 By: \_\_\_\_\_

SHERMAN M. SPITZ

LANCE A. LABELLE

17 RYAN C. TULEY

18 Attorneys for Defendant

19 CONTINENTAL CASUALTY CO.

20  
21 DATED: June \_\_, 2005

22 GREENE, BROILLET & WHEELER, LLP

23  
24 By: \_\_\_\_\_

25 MARK T. QUIGLEY

26 Attorneys for Plaintiffs

27  
28 IC/CNA/SMITH/34623/STIP 6/05

**ORDER**

GOOD CAUSE HAVING BEEN SHOWN, it is ordered that:

1. The expert discovery cut-off date is continued from June 30, 2005 to August 30, 2005;

2. The pre-trial conference is continued from July 18, 2005 to September 12, 2005, at 11:00 a.m., in Courtroom 2; and

3. Trial is continued from September 13, 2005 to November 8, 2005, at 9:00 a.m., in Courtroom 2.

\*NO FURTHER CONTINUANCES

DATED: 6/14/05

By: /s/ OLIVER W. WANGER  
OLIVER W. WANGER  
Judge of the United States  
District Court

**PROOF OF SERVICE**

I am over the age of 18 and not a party to the within action. My business address is 2 Park Plaza, Suite 650, Irvine, California 92614-8516. I am employed by the law firm of Berger Kahn, A Law Corporation, in Orange County, California.

On June 9, 2005, I served the within document described as: **STIPULATION RE AND [PROPOSED] ORDER CONTINUING THE PRE-TRIAL CONFERENCE AND EXPERT DISCOVERY CUT-OFF** on the interested parties in this action:

[X] by placing [] the original [X] a true copy thereof enclosed in a single envelope [X] addressed as follows: [ ] addressed as stated on the attached mailing list:

Mark T. Quigley, Esq.  
GREENE, BROILLET, PANISH & WHEELER, LLP  
100 Wilshire Boulevard, Suite 2100  
Santa Monica, CA 90407-2131

[X] **BY MAIL** - I deposited such envelope for processing in the mail room in our offices. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Irvine, California, in the ordinary course of business. I am aware that on motion of a party served, service is presume invalid if postal cancellation date or postage meter date is more than one day after the date of deposition for mailing in affidavit.

Executed this 9th day of June 2005, at Irvine, California.

[X] (Federal) I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

By: \_\_\_\_\_  
LINDA D. OWEN